

REMARKS

Claims 1 and 10 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,111,740 ("the '740 patent"). For the reasons set forth below, it is respectfully submitted that claims 1 and 10 are not anticipated by the '740 patent.

Claims 2-9 and 11-15, which depend from claims 1 and 10, respectively, were rejected under 35 U.S.C. 103(a) as being unpatentable over the '740 patent in view of U.S. Patent No. 3,336,857 to Knodt et al. ("Knodt"). For the reasons set forth below, it is respectfully submitted that claims 2-9 and 11-15 are not unpatentable over the '740 patent in view of Knodt.

With respect to claim 1, the '740 patent does not disclose a cartridge having an outer member defining a storage chamber in which is stored the one or more beverage ingredients. The cup 16 of the '740 patent does not store the flavor substance 13. Instead, and as illustrated in Fig. 1, the flavor substance is stored in a filter unit 11.

The '740 patent also does not disclose a cartridge having an outer member sealed to an inner member having a discharge spout, as presently recited in claim 1. For example, Figures 2 and 7 illustrated that the cup 16 and filter unit are separately supported.

The '740 patent also does not disclose a cartridge having an inner member that forms a load-bearing member effective to withstand compressive forces during formation of a beverage from the one or more beverage ingredients under internal pressure, as presently recited in claim 1. As illustrated in Figure 1, the center stem of the filter unit 11 of the '740 patent is not a load-bearing member, as it is spaced from the bottom of the cup 16. Moreover, the filter unit 11 is held by its peripheral flanges, as illustrated in Figures 2 and 7, and thus is does not need to withstand compressive external clamping forces applied through the center of the cartridge.

With respect to claims 2-9, dependent from claim 1, Knodt does not disclose a cartridge having an inner member that forms a load-bearing member effective to withstand compressive forces during formation of a beverage under internal pressure from the one or more beverage ingredients, as presently recited in claim 1. Instead, the tube 143 of the container 126 is merely for cooperatively receiving the nose portion 35 of the tube to permit fluid flow. The container 126 is held by its peripheral flanges, and thus is does not need to withstand compressive external clamping forces applied through the center of the cartridge.

With respect to claim 10, the '740 patent does not disclose a cartridge having a housing having a closed first end and an open second end. As shown in Figure 1, the '740 patent

discloses a filter unit 11 having a filter carrier 14 that has both an open first end and an open second end. More specifically, the upper end of the filter carrier 14 is open and is covered by a foil 12. However, the central member of the filter carrier 14 has an opening at its lower end through which fluid is allowed to exit, and thus is not closed. The description of the operation of the filter unit 11 of the '740 patent confirms the open lower end of the filter carrier 14: "when this arrangement is brought against head 9 second popes 10 pierce the upper closure foil 12. Hot brewing liquid may then pass through flavour substance 13, through filter 15 and exit as brew at the bottom of filter carrier 14." (Col. 2, ll. 64-68.)

With respect to claims 11-15, neither the '740 patent nor Knodt disclose a cartridge having a housing having a closed first end and an open second end. The lack of such a housing in the '740 patent is discussed above with respect to claim 10, from which claims 11-15 depend. Knodt discloses a cartridge container 126 having both an open first end and an open second end. More specifically, the upper end of the cartridge container 126 of Knodt has a spreader plate 127 having openings 128 therein, and the lower end of the cartridge container 126 has a bottom portion 126 provided with a plurality of openings 137. (Col. 4, ll. 57-69. Given that both the '740 patent nor Knodt disclose a cartridge having a housing having a closed first end and an open second end, their proposed combination also will not have such a housing. Thus, claims 11-15 are not obvious in view of the proposed combination of the '740 patent and Knodt.

With respect to new claim 19, the '740 patent does not disclose a flow path that extends between the storage chamber and the discharge spout of the inner member at a portion of the inner member opposite the outlet. Instead, the flow path that extends between the interior of the filter carrier 14 and the outlet is through openings positioned at a portion of the central member of the filter carrier 14 adjacent the outlet of the central member. Knodt also fails to disclose such a flow path.

With respect to new claim 20, the '740 patent does not disclose a cartridge having an inner member that forms a load-bearing member and the inlet and the outlet of the cartridge are on the same side of the cartridge. Instead, the '740 patent discloses a filter unit 11 where the inlet is made by piercing a foil 12 on an upper side of the unit 11 and the outlet is through the bottom of a central member of a filter carrier 14 on an opposite side from the foil 12.

For the reasons set forth above, claims 1-22 are believed to be allowable over the cited references, and reconsideration and allowance of claims 1-22 are respectfully requested.

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The Commissioner is hereby authorized to charge any which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

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